

## **EXHIBIT 2**

ORIGINAL FILED

OCT 31 2008

LOS ANGELES  
SUPERIOR COURT

SUPERIOR COURT IN THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

MARIA G. MONCAYO, an individual,  
and LUELLA SMITH, an individual,  
individually and on behalf of all other  
similarly situated former employees of  
CIRCUIT CITY in California,

Plaintiffs,

vs.

CIRCUIT CITY INC., a Virginia  
corporation; DOES 1 through 50,  
inclusive,

Defendants.

CASE NO. BC 368973

Assigned for all purposes to the Honorable  
Victoria Chaney, Dept. 324

(Related to Case Numbers BC 369011 &  
BC 376860)

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' APPLICATION FOR  
PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT** filed  
concurrently and separately herewith

Date: September 4, 2008  
Time: 2:00 p.m.  
Dept.: 324

Trial Date: None

The Court, having fully reviewed Plaintiffs' Application for Preliminary Approval of  
Class Action Settlement, the supporting Memorandum of Points and Authorities, and all exhibits,  
including the Joint Stipulation of Settlement Agreement and Release of Class Action Claims  
("Stipulation of Settlement"), the Notice of Proposed Class Action Settlement ("Class Notice"),  
the Claim Form, the Request for Exclusion, stipulations, notices, and the argument of counsel,  
and in recognition of the Court's duty to make a preliminary determination as to the fairness,  
reasonableness, and adequacy of any proposed class action settlement, and, if determined to be

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**[PROPOSED] ORDER**

*Moncayo et al. v. Circuit City Inc.*

1 fair, reasonable, and adequate, to provide proper notice to Class Members in accordance with  
2 California law and due process, and to thereafter conduct a final approval hearing;

3 **THE COURT MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:**

4 1. All defined terms in this Order shall have the same meaning as those set forth in  
5 the Stipulation of Settlement;

6 2. The Court preliminarily approves the Stipulation of Settlement, and the settlement  
7 terms and procedures described therein, as presumptively fair and within the range of  
8 reasonableness of a class action settlement of this type, and as fair, just, and adequate;

9 3. The Court preliminarily approves the settlement amount as fair and reasonable to  
10 Class Members, when balanced against the risks and possible outcome of further litigation  
11 relating to class certification, liability and damages;

12 4. Counsel have conducted significant investigation, research, and discovery so that  
13 the parties are able to reasonably evaluate their respective positions;

14 5. Settlement at this time will avoid substantial costs, delay and risks presented by  
15 continued prosecution of the litigation;

16 6. The proposed settlement was reached as a result of intensive, serious, and non-  
17 collusive negotiations, including two extensive mediations before mediator Antonio Piazza, Esq.,  
18 who is highly experienced in employment litigation and in complex class litigation;

19 7. Solely for the purposes of the proposed settlement, the Court does hereby  
20 provisionally certify the settlement class as defined in paragraph 6 of the Stipulation;

21 8. The Court preliminarily approves Manuel Miller and Martin I. Aarons of the Law  
22 Offices of Manuel Miller as Class Counsel, and Maria Moncayo and Luella Smith as Class  
23 Representatives;

24 9. The Court approves the Class Notice attached as Exhibit A to the Stipulation of  
25 Settlement, as well as the Claim Form and the Request for Exclusion Form attached as Exhibits  
26 B and C, respectively, and finds that distribution of the Class Notice in the manner set forth in  
27 this Order meets the requirements of California law and due process, and is the best notice  
28

1 practicable under the circumstances and shall constitute sufficient notice to all class members to  
2 be sent out to the proposed class members;

3 10. A Final Fairness and Good Faith Determination Hearing shall be held before the  
4 undersigned in Department 324 of the Los Angeles County Superior Court, Central Civil West  
5 Courthouse, 600 South Commonwealth Avenue, Los Angeles, California 90005 on

6 1-14-2009, 2008 at 2<sup>00</sup> PM a.m. The purpose of this hearing is to make a  
7 final determination whether the proposed settlement is fair, reasonable, and adequate and should  
8 be approved by the Court, and to determine the amount of attorneys' fees and costs that should  
9 be awarded to Class Counsel;

10 11. All counsel, by and through the Claims Administrator, shall supervise and  
11 administer the notice and claims procedure as set forth in the Stipulation of Settlement;

12 12. All Class Members who do not submit a timely request to be excluded from the  
13 settlement shall be bound by all determinations and judgments in the Stipulation, whether  
14 favorable or unfavorable to the settlement class, and shall be deemed to have been given a full  
15 general release of any and all Released Claims against Defendant and its successors,  
16 predecessors, assigns, and related entities, and to have waived the provisions of California Civil  
17 Code section 1542 with respect to Released Claims;

18 13. Any Class Member who wishes to participate in the proposed settlement shall  
19 submit a completed Claim Form provided by the Claims Administrator that substantially  
20 conforms to the Claim Form attached as Exhibit B to the Stipulation of Settlement;

21 14. Pending the Court's final determination of whether this proposed settlement  
22 should be granted final approval, no Class Member, either directly or representatively, or in any  
23 other capacity, shall commence or prosecute any action or proceeding asserting any of the  
24 Released Claims, as defined in the Stipulation of Settlement, with the exception of any individual  
25 lawsuits filed on behalf of individually named plaintiffs prior to the date of this Order;

26 15. Any member of the settlement class may appear at the Fairness and Good Faith  
27 Determination Hearing in person or by counsel, and may be heard to the extent allowed by the  
28 Court, in support of or in opposition to the Court's determination of the good faith, fairness,

1 reasonableness and adequacy of the proposed settlement, the requested attorneys' fees and  
2 reimbursement of litigation expenses, the proposed enhancement payments to the Class  
3 Representatives, and any Order of Final Approval and Judgment regarding such settlement,  
4 provided however, that no person, except Class Counsel and counsel for Defendant, shall be  
5 heard in opposition to such matters unless such person has complied with the conditions set forth  
6 in paragraph 21 of the Class Notice, which requires that any Class Member who wishes to object to  
7 the Settlement must file with the Court and serve on counsel for the parties a written statement objecting  
8 to the Settlement within forty-five (45) days after the date the Class Notice is first mailed.

9 **ACCORDINGLY, GOOD CAUSE APPEARING, PLAINTIFFS' APPLICATION**  
10 **FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT IS HEREBY**  
11 **GRANTED. THE COURT ACCEPTS AND INCORPORATES THE STIPULATION OF**  
12 **SETTLEMENT REGARDING PROVISIONAL CERTIFICATION OF THE CLASS FOR**  
13 **SETTLEMENT PURPOSES ONLY.**

14  
15 Dated: 10/31/2008

Victoria Gerard Cheney  
JUDGE OF THE SUPERIOR COURT